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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/311,158	05/13/1999	BRADLEY J. PEDERSEN	CTX-016CN(15	9867

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EXAMINER

MAUNG, ZARNI

ART UNIT PAPER NUMBER

2154

DATE MAILED: 12/06/2001

16

Please find below and/or attached an Office communication concerning this application or proceeding.

W

TR

Office Action Summary

Application No.
09/311,158

Applicant(s)
Pedersen

Examiner
Zarni Maung

Art Unit
2154



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 9, 1999
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-21 is/are allowed.
- 6) ☒ Claim(s) 9-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6,7,9 20) ☐ Other:

1. This communication is responsive to the preliminary amendment filed on August 9, 1999. Claims 9-21 are pending and claims 1-8 have been canceled.

2. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 9-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 5,941,949 (hereinafter '949 patent). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

As per claims 9-21, claims of the '949 patent contains the subject matter claimed in the instant application. The patent and the application are claiming common subject matter, as follows:

In a client-server network, a system for transmitting data associated with an

application program to a plurality of client nodes, comprising:

- a server node executing an application program in response to a request from a first client node to execute the application program;

- a first connection between the server node and the first client node established in response to the request, the first connection including a first protocol stack on the server node for directing communications between the application program and the first client node;

- a second connection between the server node and a second client node established in response to a request from the second client node to access the application program, the second connection including a second protocol stack on the server node associated with the first protocol stack; and

- a multiplexer in communication with each connection and the application program executing on the server node, wherein the multiplexer substantially simultaneously transmits application data associated with the application program to the first and second protocol stacks (see claims 1-3, 8 in '949 patent).

The independent claims 1 and 15 of instant application do not explicitly recite that the first and second protocol stacks are in the form of minimal communication protocol stacks as recited in the '949 patent. However, it would have been an obvious modification for one of ordinary skill in the art at the time the invention was made to modify the protocol stacks by using the minimal communication protocol stacks because doing so would have enabled the method to operate with minimal resources.

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4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Server operating system for supporting multiple client-server sessions and dynamic reconnection of users to previous sessions using different computers by Parsons, Jr. et al., U.S. patent number 6085247.

b) System and method for achieving network separation by Gooderum et al., U.S. Patent Number 5918018.

5. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the applicant (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zarni Maung whose telephone number is (703) 308-6687. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An, can be reached on (703) 305-9678. The fax phone number for this Group is (703) 308-9052. Additionally, the fax numbers for Group 2100 are as follows:

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Official Faxes: (703) 746-7239

After Final Responses: (703) 746-7238

Draft Responses: (703) 746-7240

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-3900.

December 4, 2001


ZARNI MAUNG
PRIMARY EXAMINER